

- (1) The two issues raised by respondent are ones subject to review in appeals from the preliminary order. K.S.A. 44-534a.
- (2) The Appeals Board finds the preliminary order granting benefits should be affirmed. Claimant testified to an injury on July 30, 1994 in the course of her employment for Manpower while packing boxes. She has also testified that she notified respondent of the

injury within the ten (10) days required by K.S.A. 44-520. The record contains other evidence casting doubt on claimant's testimony. Records of the initial visit to her family physician did not show a history of a work-related accident. Respondent's witnesses deny the phone call claimant asserts she made to give notice. The Award in this case, rests on the assessment of the credibility of the claimant who has testified live before the Administrative Law Judge. Giving that assessment deference, the Appeals Board concludes and finds that the Order should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of the Administrative Law Judge Alvin E. Witwer dated July 18, 1995 should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Timothy Short, Pittsburg, Kansas  
Matthew J. Stretz, Kansas City, Missouri  
Alvin E. Witwer, Administrative Law Judge  
Philip S. Harness, Director